

No. 1149

UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

C. SCHWARTING, Master and Claimant of the German Bark
"ROBERT RICKMERS," her Tackle, Apparel and Furniture,
Appellant,

vs.

THE STIMSON MILL COMPANY (a Corporation),
Appellee.

THE STIMSON MILL COMPANY (a Corporation),
Cross-Appellant,

vs.

C. SCHWARTING, Master and Claimant of the German Bark
"ROBERT RICKMERS," her Tackle, Apparel and Furniture,
Cross-Appellee.

APOSTLES
UPON CROSS-APPEAL

FILED
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Upon Appeal from the United States District
Court for the District of Washington,
Western Division.

It is now ordered and decreed that said motion be and the same is overruled, to which ruling the claimant and owners of the "Rickmers" except and their exception is here allowed.

Dated Nov. 2d, 1904.

C. H. HANFORD,
Judge.

[Endorsed] : Filed in the U. S. District Court. Nov. 2, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Decree.

This cause having come on duly and regularly to be heard before the Court, upon the report of the United States Commissioner, M. L. Clifford, heretofore duly appointed to take testimony herein, and to report the same to this Court, and upon the depositions taken and reported to this Court herein, in pursuance of the stipulations of the parties hereto, and upon the pleadings and proofs on file herein; and said cause having been duly argued by counsel for the respective parties, and duly submitted to the Court, and the said Court having heard and considered said testimony, and being duly advised in the premises, and having heretofore made and filed its written opinion in said cause wherein it stated the findings and conclusions of the Court, and the Court having overruled the motion of claimant for a rehearing herein; and it appearing to the Court that the libellant

has, by reason of the premises, suffered damages in the sum of eighteen thousand six hundred and eighty dollars (\$18,680), and that it is entitled to a decree therefor against the claimant and his surety herein for the said sum, with interest thereon at the rate of 6% per annum from the 25th day of March, 1902; and it further appearing to the Court that the claimant has made and filed herein, under and in pursuance of the provisions of Sec. 941 of the Revised Statutes of the United States, and in accordance with the stipulations of the parties hereto, a bond, in pursuance of which stipulations and bond, the said German bark "Robert Rickmers," her tackle, apparel and furniture, were duly released from the custody of the marshal of this court, which said bond is in the sum of \$25,000 and whereon the National Surety Company of New York, a corporation, is surety, said bond being duly conditioned as required by law and the rules of this court.

Wherefore, it is hereby ordered, considered, adjudged and decreed by the Court that the libellant, Stimson Mill Company, a corporation, do have and recover of and from the claimant herein, C. Schwarting, and his surety, the National Surety Company of New York, and each of them, the sum of twenty-one thousand six hundred and twelve and $\frac{75}{100}$ dollars, with interest thereon from the date hereof at the rate of 6% per annum, together with the costs of this action taxed at \$326.57, and if this decree be not satisfied and discharged in the manner and time prescribed by the rules of this court, that execution issue in accordance therewith to all of which

said claimant and surety except and said exception is here allowed.

Done in open court this 7th day of November, A. D. 1904.

C. H. HANFORD,
Judge.

[Endorsed]: Filed Nov. 7, 1904, R. M. Hopkins, Clerk.

[Title of Court and Cause.]

Assignment of Errors.

Now comes the claimant in the above-entitled cause and assigns as error in the findings and decree of the court herein the following assignments of error:

First.—The Court erred in finding as a fact that at and before the time of the collision a vigilant watch was kept on and by the schooner “Stimson.”

Second.—The Court erred in finding as a matter of law that the schooner “Stimson” was under no obligation to abandon or shift her anchorage to avoid imminent danger of collision and to minimize the damage resulting therefrom.

Third.—The Court in finding as a fact that the schooner “Stimson” under the conditions of wind, weather and anchorage existing at and before the time of collision, could not have been maneuvered so as to avoid the collision or to have minimized the damage resulting therefrom.

Fourth.—The Court erred in finding as a matter of fact and of law that the schooner “Stimson” was free from blame as to the matters causing or contributing to the collision.

Fifth.—The Court erred as a matter of law in burdening the “Rickmers” with the duty of meeting a presumption of fault under the facts and circumstances of this case; and erred further in placing upon the “Rickmers” the duty of a vessel in motion and under control to avoid a collision with a vessel at anchor.

Sixth.—The Court erred in finding as a matter of fact that all other vessels similarly situated at the time of the accident were held securely by their anchors; and further erred in burdening the “Rickmers” with any presumption of fault because of this fact so found.

Seventh.—The Court erred as a matter of law in relieving the libelant from the duty of proving that the collision was caused by the neglect of some duty owed to the libelant by the respondent.

Eighth.—The Court erred as a matter of fact and of law in finding that the anchorage of the “Rickmers” was chosen improperly.

Ninth.—The Court erred in finding as a matter of law that the “Rickmers” was to blame for the causes leading up to or contributing to the collision.

Tenth.—The Court erred in failing to find as a matter of law that the “Stimson” was to blame because of her failure to take seasonable steps to avoid or minimize the results of the collision.

Eleventh.—The Court erred in not dismissing the libel with costs.

Twelfth.—The Court erred in allowing as damages five thousand dollars for estimated permanent damage by impairment of the salable value of the libelant's vessel.

Thirteenth.—The Court erred in overruling and denying the motion of the claimant for a rehearing herein.

Fourteenth.—The Court erred in entering final judgment and decree herein against the claimant and his surety and each of them in the sum of twenty-one thousand six hundred and twelve dollars and seventy-five cents with six per cent interest thereon from the 7th day of November, 1904, the date of the said decree, together with the costs of this action taxed at three hundred and sixteen dollars and fifty-seven cents.

Fifteenth.—The Court erred in allowing libelant full demurrage of its vessel at the rate of fifty-eight dollars per day during seventy-four days of detention, and in addition thereto her necessary expenses during such detention.

Sixteenth.—The Court erred in allowing interest from any date prior to the date of the final decree herein.

JAMES M. ASHTON,
Proctor for the Claimant.

[Endorsed]: Filed in the U. S. District Court. Nov. 12, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

Due service of within assignments of error after the filing of same by receipt of a true copy thereof admitted this 12th day of November, 1904.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libelants.

[Title of Court and Cause.]

Notice of Appeal.

To the Clerk of the Above-entitled Court, and to the Above-named Libelant, and to Messrs. Hughes, McMicken, Dovell & Ramsey, Its Proctors:

Now comes the claimant in the above-entitled cause and hereby appeals from the judgment and decree rendered herein in favor of the libelant upon the 7th day of November, 1904, and entered on the 7th day of November, 1904, and from each and every part thereof, to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated at Tacoma this 12th day of November, 1904.

JAMES M. ASHTON,

Proctor for the Claimant.

United States of America, }
 District of Washington. } ss.

Due service of the above notice of appeal, after the filing of the same in the office of the clerk of the District Court of the United States for the District of Washing-

ton, Western Division, is hereby admitted this 12th day of November, 1904.

HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Libelant.

[Endorsed]: Filed in the U. S. District Court. Nov. 12, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

**Notice of Hearing of Application for Appeal and to Fix
Amount of Cost and Supersedeas Bond.**

To the Stimson Mill Company, Libelant in the Above-entitled Cause, and to Hughes, McMicken, Dovell & Ramsey, its Proctors:

Take notice that the claimant herein will apply to the Court at its sitting in the courtroom at Walla Walla, on Thursday, November 17th, at ten o'clock A. M., or as soon after as the matter can be heard, for an order allowing an appeal and fixing and approving a bond for costs and fixing and approving a bond for supersedeas, true copies of which motion and proposed order are hereto annexed.

Dated at Tacoma this 12th day of November, 1904.

JAMES M. ASHTON,
Proctor for Claimant.

Due service and receipt of the within and foregoing notice and copies is hereby acknowledged this 12th day of November, 1904.

HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Libellant.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Motion for Order Allowing Appeal, etc.

Now comes the claimant herein and respectfully shows that he has given notice of appeal from the judgment and decree rendered herein to the United States Circuit Court of Appeals for the Ninth Circuit; and further shows that at the time the libel in this cause was brought the ship was released upon a stipulation in the sum of \$25,000, conditioned to abide by and pay the final decree rendered in this cause by this court, or, in case of appeal by the appellate court.

Wherefore the claimant now moves the Court for an order allowing its said appeal, and further ordering that the bond now on file in this cause shall be a sufficient bond on appeal, and that the said bond be considered as and for a supersedeas bond, and that the claimant be relieved from giving other and further bonds except a stipulation for costs on appeal in the sum of \$250.00.

Dated at Tacoma the 12th day of Novr., 1904.

JAMES M. ASHTON,
Proctor for Claimant.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Order Allowing Appeal and Fixing Bond on Appeal.

On motion of the proctor for the claimant, it appearing to the Court that a notice of appeal from the judgment and decree of the court herein having been duly filed, and it appearing further that a stipulation with sufficient sureties in the sum of \$25,000 has been given by the claimant conditioned to abide by and pay the decree of the court herein or, in case of appeal, of the appellate court it is hereby ordered that the said appeal be allowed, and that the said bond and stipulation now on file be and considered as a supersedeas bond; that the proceedings herein be stayed until the further order of this court or of the appellate court in the premises, and that the claimant be relieved of giving other and further bonds or stipulation on appeal other than and exception a stipulation for costs on appeal in the sum of \$250.00.

Done in open court at Tacoma this 17th day of Novr., 1904.

C. H. HANFORD,
Judge.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Bond for Costs on Appeal.

Know all men by these presents, that we, C. Schwarting, master of the German bark "Robert Rickmers," claimant in the above-entitled cause acting for and in the interest of "Rickmers," Reismuhlen, Rhederei & Schiffbau A. G., owners of the said bark, as principal, and the Title Guaranty & Trust Company of Scranton, Pa., as surety, are held and firmly bound unto the Stimson Mill Company, the libelant in the above-entitled cause in the sum of two hundred and fifty dollars, to be paid to the said obligee, to which payment well and truly to be made we hereby bind ourselves, our heirs, successors, administrators and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated at Tacoma, this 14th day of Novr., 1904.

The condition of this obligation is such that whereas lately at a District Court of the United States for the District of Washington, Western Division, in the above-entitled cause a decree was entered against the above-named claimant and his stipulators from which decree the claimant has obtained an appeal to the United States Circuit Court of Appeals for the Ninth Circuit. Now, therefore,

If the said claimant, as such appellant, shall prosecute his appeal to effect, and shall pay all costs on appeal which by the decree, mandate or practice of the said appellate court he may become liable to pay, if said appeal is not sustained, then this obligation shall be void; otherwise to be and remain in full force and effect, and execution to issue thereon for the amount of such costs, not exceeding two hundred and fifty dollars at the instance of any person interested as aforesaid.

C. SCHWARTING, Master.

By JAMES M. ASHTON,

His Proctor and Attorney.

[Bond Company Seal.]

THE TITLE GUARANTY AND TRUST COMPANY, OF SCRANTON, PENN.,

By ELI P. NORTON and

W. H. HAYDEN,

Its Attorneys in Fact.

The within and foregoing bond for costs on appeal is hereby approved.

Dated at Tacoma this 14th day of November, 1904.

C. H. HANFORD,

Judge.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Notice of Filing Bond for Costs on Appeal.

To the Above-named Respondent and Libelant, The Stimson Mill Company, a Corporation, and Messrs. Hughes, McMicken, Dovell & Ramsey, its Proctors:

You and each of you will please take notice, that the undersigned appellant herein has this day filed in the office of the clerk of the United States District Court for the District of Washington, at Tacoma, his cost bond on appeal herein with the Title Guaranty and Trust Company of Scranton, Pa., as surety, and has also this day filed in the office of said clerk the order of the Judge of said District Court made on the 17th day of November, 1904, fixing and allowing the existing bond for the release of said bark "Robert Rickmers" to stand as a supersedeas bond pending the determination of the appeal herein.

Dated November 22nd, 1904.

JAMES M. ASHTON,
Proctor for Claimant and Appellant.

[Endorsed]: Filed in the U. S. District Court. Nov. 23, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

Due service of within notice by receipt of a true copy thereof admitted this 22nd day of Nov., 1904.

HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Respondent on Appeal.

[Title of Court and Cause.]

Praecipe for Apostles on Appeal.

To the Clerk of the District Court of the United States
for the District of Washington, Western Division.

Please prepare, certify and transmit to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, apostles in this case as follows:

First. The requirements of subdivision one of section one of Rule 4 of the rules in admiralty of said Circuit Court of Appeals, adopted May 21st, 1900.

Second. Stipulation between the parties dated November 12th, 1904.

Third. The libel and the amended answer herein with exhibits, if any annexed thereto.

Fourth. All the testimony in the case, together with the original of all exhibits introduced in connection therewith.

Fifth. Opinion of the Court finally deciding the case.

Sixth. The claimant's and appellant's motion for rehearing with notice of hearing same, and the order of the Court denying the rehearing.

Seventh. The final decree herein.

Eighth. The notice of appeal from said decree, with proof of filing and service of same.

Ninth. The appellant's assignments of error, with proof of their filing and service.

Tenth. The bond for costs on appeal. The motion fixing supersedeas bond and notice of hearing same, together with the order of the Judge of the District Court allowing the bond already given by appellant to stand as a supersedeas bond on appeal and the notice of filing said bond and the proof of service thereof.

Eleventh. Citation on appeal.

The notice of appeal having been filed and served upon November 12th, 1904, you will please have filed in the office of the clerk of said Court of Appeals at San Francisco the foregoing apostles on or before the 12th day of December, 1904.

Respectfully,

JAMES M. ASHTON,

Proctor for Appellant, C. Schwarting, Master of the German Bark "Robert Rickmers," the Claimant in the District Court.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

Clerk's Certificate to Apostles on Appeal.

United States of America, }
 District of Washington. } ss.

I, R. M. Hopkins, clerk of the District Court of the United States for the District of Washington, do hereby certify the foregoing typewritten pages, numbered from

one to five hundred and eighty-four, both inclusive, to contain a full, true and correct transcript of the record in the said District Court in the within entitled cause, made up in pursuance to Rule IV of the Admiralty Rules of the Circuit Court of Appeals for the Ninth Circuit.

I do further certify that there has been paid to me by the proctor for the appellant the sum of two hundred seventy-seven and 15/100 (\$277.15) dollars as clerk's fees upon said transcript on appeal.

Attest my official signature and the seal of the said District Court, at the city of Tacoma, in said District, the second day of December, A. D. 1904.

[Seal]

R. M. HOPKINS,

Clerk.

By Saml. D. Bridges,

Deputy Clerk.

[Title of Court and Cause.]

Citation on Appeal.

The United States of America, }
District of Washington. } ss.

The President of the United States of America to the
Stimson Mill Company, a Corporation, Libelant and
Respondent on Appeal in the Above-entitled Cause.
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals to be holden at the city of San Francisco, California, in

and for the Ninth Circuit, within thirty days from the date hereof, pursuant to an appeal of the claimant from a decree of the United States District Court for the District of Washington, Western Division, in a certain cause in admiralty wherein you are the libelant and the German bark "Robert Rickmers," her tackle, apparel and furniture is the respondent, and C. Schwarting, master of the said bark, is the claimant, to show cause, if any you have, why the decree rendered against the claimant in said cause as in said decree mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 12th day of November, 1904, and of the Independence of the United States, the one hundred and twenty-eighth.

C. H. HANFORD.

Judge of the District Court of the United States for the District of Washington.

[Endorsed]: In the United States Circuit Court of Appeals, Ninth Circuit. The Stimson Mill Co., a Corporation, Libelant and Respondent, vs. C. Schwarting, Master German Bark "Robt. Rickmers," Claimant and Appellant. In Admiralty. Citation on Appeal. Due Service of Within Citation by Receipt of a True Copy Thereof Admitted this 12th day of Nov., 1904. Hughes, McMicken, Dovell & Ramsey, Proctors for Respondent on Appeal. Filed in the U. S. District Court, Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

J. M. Ashton, Proctor for Claimant and Appellant, Office, Room 410, Fidelity Trust Bldg., Tacoma.

[Endorsed]: No. 1149. United States Circuit Court of Appeals for the Ninth Circuit. C. Schwarting, Master and Claimant of the German Bark "Robert Rickmers," Her Tackle, Apparel and Furniture, Appellant, vs. the Stimson Mill Company, a Corporation, Appellee. Apostles on Appeal. Upon Appeal from the United States District Court for the District of Washington, Western Division.

Filed Dec. 10, 1904.

F. D. MONCKTON,
Clerk.

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*District Court of the United States, District of Washington,
Western Division.*

Statement Under Rule IV.

Parties:

The Stinson Mill Company, a corporation, libelant and
cross-appellant.

C. Schwarting, as master and claimant of the German
bark "Robert Rickmers," her tackle, apparel and
furniture, cross-appellee.

Statement:

Dec. 15, 1904. Assignment of errors of cross-libelant
filed.

Cross-appeal allowed and bond for costs fixed at \$250.

Bond for costs filed and approved.

Notice of cross-appeal, with admission of service,
filed.

Citation issued and filed with acknowledgment of ser-
vice.

Proctors:

Messrs. Hughes, McMicken, Dovell & Ramsey, Bailey
Building, Seattle, Wash., for cross-appellant.

Mr. James M. Ashton, Fidelity Building, Tacoma,
Wash., for cross-appellee.

*In the United States District Court for the District of Wash-
ington, Western Division.*

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a Corporation),	}	No. 364.
Libelant,		
vs.		
The German Bark "ROBERT RICK- MERS," Her Tackle, Apparel and Furniture,	}	
Respondent.		
C. SCHWARTING, Master,		
Claimant.		

Assignment of Errors.

Now comes the libelant in the above-entitled cause and assigns error in the findings and decree of the Court herein as follows:

I.

The Court erred in allowing libelant only the sum of \$4,292.00 for demurrage.

II.

The Court erred in allowing demurrage for only 74 days, whereas libelant's ship actually lost 90 days by reason of the said collision and was entitled to demurrage for the full period of said 90 days.

HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Libelant.

Copy of within assignment of errors received and due service of same acknowledged this 15th day of December, 1904.

JAMES M. ASHTON,

Proctor for said Respondent and C. Schwarting, Master, Claimant.

[Endorsed]: Filed in the U. S. District Court, Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

In the United States District Court for the District of Washington, Western Division.

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a Corporation),

Libelant,

vs.

The German Bark "ROBERT RICKMERS," Her Tackle, Apparel and Furniture,

Respondent.

C. SCHWARTING, Master,

Claimant.

No. 364.

Order Allowing Cross-appeal and Fixing Cost Bond.

On motion of the proctor for the libelant, it appearing to the Court that a notice of cross-appeal from the judgment and decree of the Court herein having been duly filed, it is hereby ordered that the same cross-appeal be, and it is hereby allowed, and the stipulation for

costs on said cross-appeal hereby fixed at the sum of \$250.00.

Done in open court this 15th day of December, A. D. 1904.

(Signed) C. H. HANFORD,
Judge.

Copy of within order received and due service of same acknowledged this 15th day of December, 1904.

JAMES M. ASHTON,
Proctor for said Respondent and Claimant.

[Endorsed]: Filed in the U. S. District Court, Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

In the United States District Court for the District of Washington, Western Division.

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a Corporation),	} Libelant,	} No. 364.
vs.		
The German Bark "ROBERT RICK- MERS," Her Tackle, Apparel and Furniture,	} Respondent,	
C. SCHWARTING, Master.		

Bond for Costs on Cross-appeal.

Know all men by these presents, that we, the Stimson Mill Company, a corporation, libelant in the above-en-

titled cause, as principal, and R. R. Spencer, and W. St. Wright, as sureties, are held and firmly bound unto C. Schwarting, claimant in the above-entitled cause, in the sum of two hundred and fifty dollars, to be paid to the said obligee, to which payment well and truly to be made, we hereby bind ourselves, our heirs, successors, administrators and assigns, jointly and severally firmly by these presents.

Signed, sealed and dated at Seattle, this 15 day of December, A. D. 1904.

The condition of this obligation is such that whereas, lately at a District Court of the United States for the District of Washington, Western Division, in the above-entitled cause, a decree was entered against the above-named claimant and his stipulators, from which decree the said claimant has taken an appeal and from which decree the said libelant has likewise taken a cross-appeal to the said United States Circuit Court of Appeals for the Ninth Circuit;

Now, therefore, if the said libelant, as such cross-appellant shall prosecute its cross-appeal to effect and shall pay all costs on said cross-appeal, which by the decree, mandate or practice of the said appellate court it may become liable to pay, if said cross-appeal is not sustained, then this obligation shall be void, otherwise to be and remain in full force and effect and execution to

issue thereon for the amount of said costs, not exceeding two hundred and fifty dollars, at the instance of any person interested as aforesaid.

(Signed) STIMSON MILL COMPANY,
Libelant.

By HUGHES, McMICKEN, DOVELL & RAMSEY,
Its Proctors.

R. R. SPENCER and
W. St. WRIGHT.

The within and foregoing bond for costs on cross-appeal is hereby approved.

Dated at Seattle, Washington, this 15th day of December, 1904.

C. H. HANFORD,
Judge.

The said respondent and C. Schwarting, master, claimant, hereby waive notice of the filing of the foregoing bond and assent to the sufficiency of the sureties thereon.

Dated Dec. 15th, 1904.

JAMES M. ASHTON,
Proctor for said Respondent and C. Schwarting, Master, Claimant.

Copy of within bond received and due service of same acknowledged this 15th day of December, 1904.

JAMES M. ASHTON,
Proctor for said Respondent and C. Schwarting, Master, Claimant.

[Endorsed]: Filed in the U. S. District Court, Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

*In the United States District Court for the District of Wash-
ington, Western Division.*

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a Corporation),	} Libelant,	} No. 364.
vs.		
The German Bark "ROBERT RICK- MERS," Her Tackle, Apparel and Furniture,	} Respondent.	}
C. SCHWARTING, Master,		

Notice of Cross-appeal.

To the Clerk of the Above-entitled Court, and to the
Above-named Claimant and to James M. Ashton,
His Proctor:

Now comes the libelant in the above-entitled cause
and hereby appeals to the United States Circuit Court
of Appeals for the Ninth Circuit, from so much of the
judgment and decree rendered and entered in said cause
in favor of the libelant, on the 7th day of November,
1904, as allows to the libelant for demurrage only the
sum of \$4,292.00, at the rate of \$58.00 per day for 74
days only.

Dated this 15 day of December, 1904.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libelant.

United States of America, }
 District of Washington. } ss.

Due service of the above-entitled notice of cross-appeal after the filing of the same in the office of the clerk of the District Court of the United States for the District of Washington, Western Division, is hereby admitted this 15th day of December, 1904.

JAMES M. ASHTON,
 Proctors for Claimant.

[Endorsed]: Filed in the U. S. District Court, Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a Corporation), Libelant and Respondent, vs. C. SCHWARTING, Master of the German Bark "ROBERT RICK- MERS," Claimant and Appellant.	}	No. 364.
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Praeceptum for Apostles.

To the Clerk of the District Court for the District of Washington, Western Division:

Please prepare, certify and transmit to the Clerk of the United States Circuit Court of Appeals for the

Ninth Circuit at San Francisco, apostles upon the cross-appeal of the above-named libelant in this cause in addition to (but not including therein) all the matters and things embraced in the apostles in this case of the claimant and appellant C. Schwarting, to wit:

I.

The notice of cross-appeal from said decree, with proof of filing and service of same.

II.

The assignment of errors of cross-appellant with proof of their filing and service.

III.

The order allowing cross-appeal and fixing stipulation for costs thereon.

IV.

The bond for costs on cross-appeal with the order approving the same and the notice of filing said bond and proof of service thereon.

V.

The citation on cross-appeal.

The notice of cross-appeal having been filed and served upon the 15th day of December, A. D. 1904, you will please have filed in the office of the clerk of said Court of Appeals at San Francisco, the foregoing apostles as soon as convenient and not later than thirty

days from the date of the filing and service of said notice of said cross-appeal.

Respectfully,

HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Libelant and Cross-appellant, Stimson
Mill Company.

Copy of within praecipe for apostles received, and due service of same acknowledged this 15th day of Decr., 1904.

JAMES M. ASHTON,
Proctor for said Bark "Robert Rickmers" and said
Claimant.

[Endorsed]: Filed in the U. S. District Court., Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

*In the United States Circuit Court of Appeals for the Ninth
Circuit.*

IN ADMIRALTY.

STIMSON MILL COMPANY (a Corpo-
ration),

Libelant and Respondent,

vs.

C. SCHWARTING, Master of the
German Bark "ROBERT RICK-
MERS," Her Tackle, Apparel and
Furniture,

Claimant and Appellant.

No. —.

Citation on Cross-appeal.

The United States of America, }

District of Washington. }

ss.

The President of the United States of America to C.
Schwartzing, Master of the German Bark "Robert
Rickmers," Claimant and Respondent on Cross-ap-
peal in the Above-entitled Cause, Greeting:

You are hereby cited and admonished to be and ap-
pear at a United States Circuit Court of Appeals to be
holden at the city of San Francisco, California, in and
for the Ninth Circuit, within thirty days from the date
hereof, pursuant to a cross-appeal of the libelant from
a decree of the United States District Court for the

District of Washington, Western Division, in a certain cause in admiralty, wherein the Stimson Mill Company, a corporation, is libellant, and the German bark "Robert Rickmers," her tackle, apparel and furniture is respondent, and C. Schwarting, master of said bark is claimant, to show cause, if any you have, why the decree rendered against the claimant in said cause, as in said decree mentioned, should not be corrected, and why speedy justice should not be shown the parties in that behalf.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 15th day of December, A. D. 1904, and of the Independence of the United States the one hundredth and twenty-eighth.

[Seal]

C. H. HANFORD,

Judge of the District Court of the United States for the District of Washington.

Copy of within citation received, and due service of same acknowledged this 15th day of December, 1904.

JAMES M. ASHTON,

Proctor for said Bark "Robert Rickmers" and C. Schwarting, Master, Claimant.

[Endorsed]: Original. In the United States District Court, District of Washington, Western Division. The Stimson Mill Co., Libellant, vs. "Robert Rickmers," etc., Respondent. C. Schwarting, Claimant. Citation on Cross-appeal. Filed in the U. S. District Court, Dist. of Washington. Dec. 15, 1904. R. M. Hopkins, Clerk.

Clerk's Certificate to Apostles upon Cross-appeal.

United States of America, }
District of Washington. } ss.

I, R. M. Hopkins, Clerk of the District Court of the United States for the District of Washington, do hereby certify the foregoing typewritten pages to contain the apostles on cross-appeal in the within entitled cause, made up pursuant to Rule IV of the Admiralty Rules of the United States Circuit Court of Appeals for the Ninth Circuit.

I do further certify that there has been paid to me by the proctors for the cross-appellant the sum of \$11.15, as clerk's fees upon said cross-appeal.

Affest my official signature and the seal of the said District Court, at the city of Tacoma, the 27th day of December, A. D. 1904.

[Seal]

R. M. HOPKINS,
Clerk.

By Saml. D. Bridges,
Deputy Clerk.

[Endorsed]: No. 1149. United States Circuit Court of Appeals for the Ninth Circuit. C. Schwarting, Master and Claimant of the German Bark "Robert Rickmers," Her Tackle, Apparel and Furniture, Appellant, vs. The Stimson Mill Company (a Corporation), Appellee. The Stimson Mill Company (a Corporation), Cross-appel-

lant, vs. C. Schwarting, Master and Claimant of the German Bark "Robert Rickmers," Her Tackle, Apparel and Furniture, Cross-appellee. Apostles upon Cross-appeal. Upon Appeal from the United States District Court for the District of Washington, Western Division.

Filed December 31, 1904.

F. D. MONCKTON,

Clerk.